

REMARKS

Claims 1 through 22 are currently pending in the application.

This amendment is in response to the Office Action of December 18, 2003.

35 U.S.C. § 102(e) Anticipation Rejections

Anticipation Rejection Based on Hayward et al. (U.S. Patent 6,629,134)

Claims 1 through 22 were rejected under 35 U.S.C. § 102(e) as being anticipated by Hayward et al. (U.S. Patent 6,629,134).

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

After carefully considering the cited prior art, the rejections, and the Examiner's comments, Applicant has amended the claimed invention to clearly distinguish over the cited prior art.

Turning to the cited prior art, the Hayward et al. reference is directed to a method of providing support to a user of a computer peripheral. A peripheral 10 may be a combination fax, copier, printer, and scanner workstation. The user may access information regarding the peripheral or receive information concerning the peripheral if an error or problem occurs. The user may update user support information for the repair, service or replacement of an expendable supply for the peripheral at any time.

Applicant asserts that the Hayward et al. reference does not and cannot anticipate the claimed inventions of claims 1 through 22 under 35 U.S.C. § 102 because the cited prior art does not identically describe, either expressly or inherently, each and every element as set forth in the claim in as complete detail as is contained in the claim. For instance, in independent claim 1 of the present application the Hayward et al. reference does not identically describe, either expressly or inherently, the elements of the claimed invention calling for "conveying a print job to a printer said printer including at least one functional characteristic, said print job requiring the utilization of said at least one functional characteristic", "assigning a numerical value to the degree of utilization of said at least one

} C8/45-49
 } a print job
 } has to be
 } printed by
 inc

(functional characteristic", "maintaining said numerical value in a memory of said printer; } 22/25-40
 C6) 1-4 { accessing information on a selection of upgrades available for said printer", "comparing said
 information to said numerical value to select a preferred upgrade"; and "suggesting said
 preferred upgrade to a user of said printer for installation on said printer".

In contrast to the elements of the claimed invention of independent claim 1 of the
 present application, the Hayward et al. reference merely monitors the condition of a
 combination peripheral fax, copier, printer, and scanner either to determine the status of the
 expendable supplies used by the machine or to determine if an error in operation of the
 machine has occurred. Such is not the claimed invention of independent claim 1 for

7 suggesting printer upgrades of software for the printer based upon actual usage of the printer. } Not claimed

Applicant
cannot argue
what is
"suggested",
but what is claimed.
 Nowhere does the Hayward et al. reference contain any such description of the claimed
 invention.

Therefore, independent claim 1 and dependent claims 2 through 9 therefrom are
 allowable.

Similarly, in claim 10 of the present application the Hayward et al. reference does not
 identically describe, either expressly or inherently, the elements of the claimed invention
 calling for "assigning fuzzy value scores to said usage of each of said functional
 characteristics of the printer", "accessing information on a selection of upgrades for
 maintenance of said printer, said information containing individual selection scores for each
 of said upgrades available for said printer based upon the usage of the functional
 characteristics of the printer", "comparing said fuzzy value scores to said selection scores to
 select a preferred upgrade available for the printer," and "suggesting said preferred upgrade to
 a user of said printer available for the printer."

In contrast to the elements of the claimed invention of independent claim 10 of the
 present application, the Hayward et al. reference merely monitors the condition of a
 combination peripheral fax, copier, printer, and scanner to determine the status of the
 expendable supplies used by the machine or to determine if an error in operation of the
 machine has occurred. Such is not the claimed invention of independent claim 10 for method
 of tracking printer use to suggest appropriate upgrades of software for the printer based upon
 actual usage of the printer using "fuzzy value scores" to the usage of each of the functional
 characteristics of the printer.

Therefore, independent claim 10 and dependent claims 11 through 16 therefrom are allowable.

Additionally, in claim 17 of the present application the Hayward et al. reference does not identically describe, either expressly or inherently, the elements of the claimed invention calling for "a usage record stored within said memory, said usage record including a history of a utilization of functional characteristics of said printer", "a selection database stored within said memory, said selection database containing information on a number of upgrades for improving the functions of said printer," and "a microprocessor located within said printer, said microprocessor capable of following a set of instructions to select a preferred upgrade by analyzing said usage record using a fuzzy logic protocol and comparing said analysis to said selection database."

In contrast to the elements of the claimed invention of independent claim 17 of the present application, the Hayward et al. reference merely monitors the condition of a combination peripheral fax, copier, printer, and scanner to determine the status of the expendable supplies used by the machine or to determine if an error in operation of the machine has occurred. Such is not the claimed invention of independent claim 17 for a system for providing user responsive printer maintenance to suggest appropriate upgrades of software for the printer based upon actual usage of the printer using a microprocessor located within said printer, the microprocessor capable of following a set of instructions to select a preferred upgrade by analyzing the usage record of the printer using a fuzzy logic protocol and comparing said analysis to said selection database.

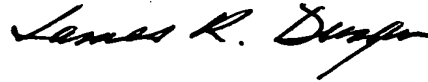
Therefore, independent claim 17 and dependent claims 18 through 22 therefrom are allowable.

Applicant submits that claims 1 through 22 are clearly allowable over the cited prior art.

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Applicant requests the allowance of claims 1 through 22 and the case passed for issue.

Respectfully submitted,



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